Cf 100 (B) (1)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.No. ----------3169----------/2004

PETTIONER : Naval Kishore yadav s/o late Shri Johan Singh aged about 42 years,Occupation- Asst. sub-inspector, Police station Kanker Distt.- kanker [C.G.]

P.R. No. 3165/04
Presented by Shri D.S.C. Pandey
Dated 9-9-04

VERSUS

RESPONDANT

1.State of Chhattisgarh
Through Secreatary
Home Police Dept.
D.K.S. Bhawan Raipur (C.G.)

2 Dierctor General of Police
Dist.- Raipur (C.G.)

3 Inspector General of Police
Bastar ,Dist.- Bastar (C.G.)

RECEIVED COPY
9/9/04
Bilaspur
Deputy to A.G.

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

(39)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 3169/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	15-2-2006 Shri V.R. Tiwari, Smt. Renu Kochar and Shri Sameer Behar, counsel for the petitioner. Shri Satish Gupta, Dy. Govt. Advocate for the State. Heard on I.A.No.6743/2005 for taking rejoinder on record. Not opposed. For the reasons stated in the application (I.A.No.6743/05), the same is allowed and the rejoinder is taken on record. Heard. The petitioner has preferred the instant writ petition under Article 226/227 of the Constitution of India, being aggrieved by the order dated 1-8-2004 (Annexure-P/1) passed by the Inspector General of Police, Bastar Range, Jagdalpur. Learned counsel for the petitioner submits that the petitioner is working in the Police Department since 1981 and since then he was posted in Naxalite area. Learned counsel further submits that the petitioner was initially appointed as Constable and in the year 1987 he was promoted to the post of Head Constable. It is submitted that presently the petitioner is working on the post of Assistant Sub Inspector. Learned counsel	

[पीछे देखिये

XI-HC-22

(48)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 3169/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

submits that by impugned order dated 1-8-2004 (Annexure-P/1) the petitioner's posting has been changed from Kanker to Dantewara, which is against the policy. Learned counsel refers to circular dated 28-1-2003 (Annexure-P/3) wherein it has been mentioned that those Head Constables who have completed 5 years of service and Constables who have completed 15 years of service in Naxalite areas will be considered for posting in non-naxalite areas. Learned counsel submits that the petitioner submitted representation as per Annexure-P/2 before the respondent authorities by referring circular dated 28-1-2003 (Annexure-P/3).

It is pointed out that on 20-9-2004 this Court passed the following order :

> "Since time is sought by the State, learned counsel for the petitioner prays that the petitioner be allowed to continue in the present place of posting that is at Kanker.
>
> It is directed that if the petitioner has already not been relieved, he should not be relieved till the next date of hearing."

Return has been filed by the State wherein it has been stated that the petitioner has not been transferred and he has been attached with Police Line, Dantewada due to shortage of

[पीछे देखिये

XI-HC-22

(41)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

WP 3169/04

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

force. In para 11 of the reply it has been mentioned that District Police Force is a disciplined force and for maintaining law and order, such force or a member of such force can be attached wherever required.

Rejoinder has been filed by the petitioner wherein it has been mentioned that in the writ petition preferred by the petitioner due to inadvertence the word attachment could not be reflected, but in fact the impugned order is an order of attachment which has been passed in clear violation of Government circular.

Learned counsel for the petitioner placed reliance upon the decision of this Court rendered in the case of *Chunnu Tigga vs. State of Chhattisgarh & Others (W.P.No.3577 of 2004)*. Para 4 of the said decision is relevant and quoted below :

> "4. It is contended that the Chief Secretary of the State of Chhattisgarh had taken a meeting and it has been decided that no officer/employee of the State would be attached from his original place of posting. It is further contended that the General Administration Department, State of Chhattisgarh, issued a circular dated 4-6-2001 (Annexure-P/2) directing all the departments of the State not to issue any

[पीछे देखिये

(42)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

WP 3169/04

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —५—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

order of attachment of employees, to other places by disturbing them from their parent place of posting. It is also contended that in case such an order of attachment is passed, then it should be cancelled and the concerned employee should be posted at his original place of posting. Annexure-P/2 further contains a caution that if any person is attached, then the attachment order should be cancelled. It is also contented that if in future any person is attached, then disciplinary proceedings may be initiated."

Having considered the facts and circumstances of the case, material on record and in view of the decision of this Court rendered in the case of *Chunnu Tigga* (supra), this Court is of the opinion that the attachment order dated 1-8-2004 (Annexure-P/1), issued by the Inspector General of Police, Bastar Range, Jagdalpur, in regard to the petitioner deserves to be set aside. Accordingly, it is set aside.

In the result, the petition is allowed. Consequently, pending applications, if any, also stand disposed of.

Sd/-
Fakhruddin
Judge

Gowri

[पीछे देखिये